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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 11494 of 2003

Between:

D. Ramanaiah, S/o. Roasaiah, Attender, R/o. Veligandla, Veligandla Post & Mandal, Prakasam District.

... PETITIONER

AND

1. The Person-in-Charge/Chairperson

Veligandla PACS, Veligandla Post & Mandal, Prakasam District.

2. The General Manager, The Prakasam District Co-operative Central Bank

Ongole, Prakasam District.

3. The Divisional Co-operative Officer, Kandukur, Kandukur Post & Mandal,

Prakasam District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly in the nature of Writ of Mandamus declaring the order of the 2nd respondent in Adm.F.No.177/2002-03/A5 dated 08.05.2003 and consequential order of 1st respondent dated 04.06.2003 as illegal, arbitrary and without jurisdiction and violating the Bye-laws of the societies and the same may be set-aside and consequently direct the respondents to continue the petitioner in service as Attender

Counsel for the Petitioner: MR.S.SIVA PRASAD

Counsel for the Respondent No.1: MR. M. KESAVA RAO

Counsel for the Respondent No.2: MR.R.V.SUBBA RAO

Counsel for the Respondent No.3: GP FOR COOPERATION

The Court made the following order:

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ORDER:

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Petitioner questions the proceedings of the General Manager, District Cooperative Central Bank Limited, Ongole, dated 08.05.2003 and the consequential notice of termination issued by the first respondent-Veligandla Primary Agricultural Cooperative Society (for short 'PACS') dated 04.06.2003.

The second respondent issued proceedings dated 08.05.20003 stating that the Deputy Registrar of Cooperative Societies issued notice dated 17.03.2002 giving clear instructions to dispense with the services of the persons who were appointed in the societies in violation of Act 2 of 1994.

Pursuant to the said proceedings the first respondent society issued one month notice for termination of the services of the petitioner. In the said notice dated 04.06.2003 it is stated that the appointment of petitioner on 10.07.1999 by the Managing Committee of PACS appointing him as attender to the society is irregular and against the provisions of Section 116-C of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') and also contrary to the directions of the Deputy Registrar of the Cooperative Societies dated 17.03.2002 and the directions of the General Manager, District Cooperative Central Bank Limited, Ongole, dated 08.05.2003 and therefore, the PACS resolved to terminate the

services of the petitioner.

If this termination is only on the ground that the appointment of the petitioner is against the guidelines laid down under Section 116-C of the Act, this decision cannot be interfered with. If the said termination is based on the direction of the General Manager, on the ground that the appointment was in violation of Act 2 of 1994, the same cannot be sustained. The only criteria either for appointment or termination is to follow the guidelines prescribed under Section 116-C of the Act r/w Rules 28(4) (b) and 36(B) of the Andhra Pradesh Cooperative Societies Rules.

Accordingly, the writ petition is disposed of the setting aside the impugned order keeping it open to the first respondent society to take appropriate action to implement the mandatory provisions of Section 116-C r/w Rules 28(4) (b) and 36(B) of the APCS Rules.

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V. ESWARAIAH, J

November 4, 2004

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TO

1. The General Manager, The Prakasam District Co-operative Central Bank

Ongole, Prakasam District.

2. The Divisional Co-operative Officer, Kandukur, Kandukur Post & Mandal, Prakasam District.

3. The Person-in-Charge/Chairperson, Veligandla PACS, Veligandla Post & Mandal, Prakasam District.

4. Two CCs to GP For Cooperation, High Court Buildings, Hyderabad (OUT)

5. Two CD Copies.